

REMARKS/ARGUMENTS

Claims 1-4 and 6-14, 16, 18-20 and 22 are active.

Claim 1 is also amended in accordance with the disclosure at page 2, line 32 to page 3, line 1. Claim 19 is amended to correct a typographical error.

No new matter is added.

The rejection of claims 1 and 15 under 35 USC 112, first paragraph is no longer applicable as, even though the Applicants disagree with the rejection, claim 15 has been cancelled and Claim 1 has been amended to define that the substrate is doubly curved as explicitly recited on page 3 of the specification as originally filed. Withdrawal of the rejection is requested.

The rejection of Claims 17 and 21 under 35 USC 112, second paragraph is no longer applicable as these claims have been cancelled.

The rejection combining US 4,773,741 (Inaba) and US 5,981,076 (Ojeda) (as well as the second rejection adding Agrawal) cannot be sustained. One of the reasons that the rejection is maintained, at least apparent from the Response to Arguments section in the Action, is the remaining confusion of the complexity value F. While Applicants believe that this is suitably described and explained to one of skill in the art, that limitation has been deleted. Claim 1 defines plainly that the substrate is “doubly curved.” The curved substrate of the present claims compared to the planar substrates of the cited prior art as well as the benefits that the claimed arrangement provides cannot sustain the rejections.

The rejection relies upon Ojeda to include PET or PMMA into the Inaba device but Applicants continue to assert that this is not a proper construction of the prior art in light of

the fact that both films are comparative films (i.e., not useable for the purpose Ojeda intends) to the sPS film that is the subject of the Ojeda invention. Therefore, Ojeda does not teach using a polymer film composed of PET having the percent shrinkage but rather that the sPS film has that percent shrinkage because the conventional PET film was not suitable.

The Inaba patent describes an electrochromic display device which includes glass substrates (features 10 and 20 in Figure 1), electrode films and electrochromic layer (feature 14 in Figure 1). Inaba also suggest providing an insulating film, for example, features 34 and 36 in Figure 3, which surrounds the electrode body 32, and that can be composed of polyethylene. (See columns 5 and 6 of the Inaba patent).

The Examiner acknowledges o that Inaba does not specifically disclose a film having the percent shrinkage as defined in Claim 1. It is for this feature the Examiner relies on the Ojeda patent which teaches overlay films being syndiotactic polystyrene having reduced shrinkage (see Example 4 in columns 9-10). The Ojeda patent mentions PET as a film but does so for comparative purposes, i.e., not suitable to provide good dimensional stability. Therefore, contrary to the Examiner's conclusion on page 5, Ojeda does not teach using a polymer film composed of PET having the percent shrinkage because according to Ojeda the conventional PET film was not suitable. Indeed, Ojeda teaches away from using such PET films.

Further,

. . . an invention is not obvious to try where vague prior art does not guide an inventor toward a particular solution. A finding of obviousness would not obtain where "what was 'obvious to try' was to explore a new technology or general approach that seemed to be a promising field of experimentation, where the prior art gave only general guidance as to the particular form of the claimed invention or

how to achieve it." This expresses the same idea as the KSR requirement that the identified solutions be "predictable."

Bayer Schering Pharma AG v. Barr Laboratories, Inc. 2009 U.S. App. LEXIS 17372, 91 U.S.P.Q.2D (BNA) 1569 (Fed. Cir. 2009) (internal citations omitted)

Claim 1 defines a doubly curved substrate, the specification at page 2 line 27 to page 3 line 1 explains that doubly curved substrates lead to more mechanical stresses resulting from lamination, which deteriorates layers incorporated with the lamination interlayer such as solar protection layers or electrochromic layers, which would lead to deterioration of the function of the electrically controllable device. None of the cited prior art provides any teachings to a doubly curved substrate nor what films to select for facilitating protection of such substrates. Rather, the polymer films having the claimed shrinkage during lamination have been found by the inventors to protect the functional layers during lamination of doubly curved substrates (page 3 lines 16 and 17).

That the cited references teaches very different articles (compared to what is claimed), with only general disclosure as to what could be included, there is simply nothing in citations of the rejections that suggests to the problem underlying the present invention, protection of functional layers in doubly curved substrates. The disclosures that are relied upon in the rejection are only "general guidance" (*Id.*) and simply are not the "finite disclosure" and guidance to "a particular solution" that the law requires. (*Id.*).

Agrawal is cited to allege that certain features of Claims 12-14 would have been obvious when the teachings of Agrawal are combined with Inaba and Ojeda. Claims 12-14 depend from Claim 1 and therefore incorporate all of the limitations of Claim 1. Agrawal does not remedy the deficiencies of the primary combination of Inaba and Ojeda in that Agrawal does not teach a doubly curved substrate or the polymer film percentage shrinkage as defined in the claims. Agrawal also does not describe the limitations of Claims 19 and 20.

As the combination of Inaba and Ojeda do not teach these limitations when combined with Agrawal, the combination of art cannot and does not teach all of the limitations of the claims.

Withdrawal of both rejections applied under 35 USC 103(a) is requested.

A Notice of Allowance for all pending claims is requested.

Respectfully submitted,

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